IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5365 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
MARCH 12, 2007.

Heard Shri Deshpande, learned counsel for the petitioner - tenant and Shri Sirpurkar, learned counsel for the respondent – landlady.

The challenge is to the concurrent orders passed under Maharashtra Rent Control Act, 1999, granting permission to the respondent – landlady and for passing decree of eviction against the petitioner on the ground of bonafide need. The need pleaded and accepted is for her own residence and also for business of her son Sk. Lala.

Shri Deshpande, learned counsel for the petitioner has relied upon the judgment of this Court in the case of Sitaram vs. Ibrahim, reported at 2005 (1) Mh.L.J. 35, particularly paragraph 7 to contend that mere desire of landlady could not have been accepted. He

argues that since last 40 years Sk. Lala never made any attempts to have his business of dynamo repairs at Khamgaon and he is settled at Jalgaon where he is having a house in the name of his wife and where two shops are being run by him for said purposes. He further states that his children are also taking education at Jalgaon and therefore it cannot be accepted that he has desire to come back to Khamgaon. He lastly argues that earlier in the vicinity of tenanted premises there were shops undertaking activities of dynamo repairs but after by-pass has been constructed at Khamgaon, all this work related with heavy traffic has gone to by pass. He contends that in view of this material which has come on record, it was necessary for the appellate authority to apply its mind independently and as that has not been done, there is failure to exercise jurisdiction.

Shri Sirpurkar, learned counsel for the respondent, on the other hand invited attention to the application of mind by lower Court as also by the appellate authority and has contended that concurrent orders are delivered and there is no question of this Court

interfering in writ jurisdiction.

Shri Deshpande, learned counsel has also taken me through the relevant evidence on record.

I find that the evidence adduced has been properly evaluated and it cannot be said that findings arrived at by the authorities below are perverse. The landlady owns a premises and she has proved her own need. Not only this she has also shown that Sk. Lala is competent to do the work of dynamo repairing and he desires to come and stay with her at Khamgaon. The said son has been examined and he has deposed accordingly. I find that application of mind by the lower courts cannot be lebelled as perverse. The evidence pointed out to me by Shri Deshpande, learned counsel is not sufficient to lead to any other view. The appellate Court has written a concurring order with necessary details.

In the circumstances, Writ Petition is dismissed. No order as to costs.

JUDGE

*GS.